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MEMORANDUM OF UNDERSTANDING

Between and For

THE CITY AND COUNTY OF SAN FRANCISCO

And

PAINTERS, LOCAL #4, DISTRICT COUNCIL NO. 8

For Fiscal Year 1978-79

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MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (hereinafter MOU) is entered into by the City and County of San Francisco (hereinafter City) through its designated representative acting on behalf of the Board of Supervisors and the Painters, Local #4, District Council No. 8 (hereinafter Union).

1. RECOGNITION

The City acknowledges that the Union has been certified by the Municipal Employee Relations Panel or the Civil Service Commission as the recognized employee representative, pursuant to the provisions as set forth in the City's Employee Relations Ordinance for the following classifications:

7242 Painter Supervisor I

7278 Painter Supervisor II

7346 Painter

2. INTENT

It is the intent of the parties signatory hereto that the provisions of this MOU shall not become binding until adopted or accepted by the Board of Supervisors by appropriate action. Moreover, it is the intent of the Board of Supervisors acting on behalf of the City to agree to wages, hours and other terms and conditions of employment as are within the Board's jurisdiction, powers and authority to act as defined by the Charter, state law, California Constitution and other applicable bodies of the law. The Board does not intent nor attempt to bind any board, commission or officer to any provisions of this agreement over which the Board has no jurisdiction.

Provisions of this MOU which are in conflict with provisions of ordinances, resolutions, rules or regulations over which the Board has jurisdiction to act, shall prevail. Unless an ordinance, resolution, rule or regulation is specifically

2. INTENT (Continued)

discussed and changed, deleted or modified by the terms of this MOU, it shall be deemed to remain in full operational effect.

3. NO STRIKE PROVISION

The City of San Francisco will not lock out the employees who are covered by this agreement. The employees shall not strike, cause, encourage or condone work stoppage, or organized slowdown during the term of this agreement.

4. OBJECTIVE OF THE CITY

It is agreed that the delivery of municipal services in the most efficient, effective, and courteous manner is of paramount importance to the City and its employees. Such achievement is recognized to be a mutual obligation of the parties to this MOU within their respective roles and responsibilities.

The Union recognizes the City's right to establish and/or revise performance standards or norms notwithstanding the existence of prior performance levels, norms or standards. Such standards, developed by usual work measurement procedures may be used to determine acceptable performance levels, prepare work schedules, and to measure the performance of each employee or group of employees. City shall not require unfair production quotas.

Employees who work at less than acceptable levels of performance may be subject to disciplinary measures in accordance with applicable Charter provisions and rules and regulations of the Civil Service Commission.

5. HOURS AND OVERTIME

For Painters (Classes 7346 Painter, 7242 Painter Supervisor I and 7272 Painter Supervisor II), five (5) consecutive days Monday through Friday, inclusive, a normal work day is a tour of duty of eight (8) hours completed within eight and one-half (8 ½) hours. A regular tour of duty may commence at a time not earlier than 6:00 a.m., and all regular tours of duty shall conclude not later than 4:30 p.m.

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5. HOURS AND OVERTIME (Continued)

Painters (Classes 7346 Painter, 7242 Painter Supervisor I and 7244 Painter Supervisor II) shall be paid at the rate of time and one-half for hours worked either before or after the starting and concluding times of the regular tour of duty.

On operations conducted at remote locations (limited to Hetch Hetchy project only for Painters and related classes) where replacements are not readily available, or on operations involving changes in shifts, or when other unusual circumstances warrant, the appointing officer with the approval of the Civil Service Commission may arrange work schedules averaging five days per week over a period of time, but consisting of more than five consecutive days per week and the accumulation of normal days off to be taken at a later date. Such schedules shall be the normal schedules for such operations.

6. HEALTH AND WELFARE

Effective July 1, 1978, the City agrees to contribute $36.99 per month directly into the City Health Service System for each employee who is a member of the Health Service System.

7. HOLIDAYS

The following language is an excerpt from Section VI (A) of the 1978-79 Salary Standardization Ordinance.

It is the intent and understanding of the City and the Union that the following excerpted language shall in no way amend or alter the meaning, interpretation, or the administration of the 1978-79 Salary Standardization Ordinance.

Except as otherwise provided in Section V (B) of the Administrative Provision of the Salary Standardization Ordinance for fiscal year 1978-79, and except when normal operations require, or in an emergency, employees shall not be required to work on the following days hereby declared to be holidays for such employees:

7. HOLIDAYS (Continued)

January 1, February 12 (Lincoln's Birthday), the third Monday in February (Washington's Birthday), the last Monday in May, July 4, First Monday in September (Labor Day), September 9, (Admission Day), the second Monday in October (Columbus Day), November 11, Thanksgiving Day, December 25, and any day declared to be a holiday by proclamation of the Mayor after such day has, heretofore been declared a holiday by the Governor of the State of California or the President of the United States, an additional holiday to be taken or a day selected by the employee subject to approval of the appointing officer.

Both full time and part time temporary employees must complete six (6) months continuous service before receiving an additional day; provided that part time temporary employees who are not regularly scheduled, but are employed on an as needed, irregular intermittent or other irregular basis are ineligible for an additional day.

Provided further, if January 1, February 12, July 4, September 9, November 11 or December 25 falls upon a Sunday, the Monday following is a holiday.

In the event a legal holiday falls on Saturday, the preceding Friday shall be observed as a holiday: Provided, however, that except where the Governor declares that such preceding Friday shall be a legal holiday, each department head shall make provision for the staffing of public offices under his jurisdiction on such preceding Friday so that said public offices may serve the public as provided in Section 7.702 of the Charter. Those employees who work on a Friday which is observed as a holiday in lieu of a holiday falling on Saturday shall be allowed a day off in lieu thereof as scheduled by the appointing officer in the current fiscal year.

The San Francisco Unified School District and San Francisco Community College District may, for its own employees and employees regularly assigned from other departments, substitute for the holidays declared above an equal number of different holidays.

7. HOLIDAYS (Continued)

B. HOLIDAY COMPENSATION FOR TIME WORKED

Employees required by their respective appointing officer to work on any of the above specified or substitute holidays, excepting Friday observed as holidays in lieu of holidays falling on Saturday, shall be paid extra compensation of one additional day's pay at time-and-one-half the usual rate in the amount of 12 hours pay for 8 hours worked or a proportionate amount for less than 8 hours worked.

C. HOLIDAY PAY FOR EMPLOYEES LAID OFF

An employee who is laid off close of business the day before a holiday who has worked not less than five previous consecutive work days shall be paid for the holiday.

D. EMPLOYEES NOT ELIGIBLE FOR HOLIDAY COMPENSATION

Persons employed for holiday work only or persons on leave without pay status both immediately preceding and immediately following the legal holiday shall not receive holiday pay.

E. TIME OFF FOR VOTING

If an employee does not have sufficient time to vote outside of working hours, the employee may request so much time off as will allow time to vote in accordance with the State Election Code.

8. VACATIONS

Employees in City and County service shall be allowed a vacation with pay annually, as long as he or she continues in employment, as follows:

(1) After one years' continuous service, ten working days;

(2) After five years' continuous service, fifteen working days;

(3) After fifteen years' continuous service, twenty working days.

9. ADDITIONAL COMPENSATION

Employees in classifications 7242 Painter Supervisor I, 7247 Painter Supervisor II, and 7346 Painter shall receive an additional fifty cents (.50¢) per hour for each hour assigned as a taper.

Subsistence and Expense: Employees shall be paid $20.00 a day, seven days a week for room and board for such period as the employee is required to live away from the employee's place of residence. Such maintenance shall not be considered as wages and shall be paid by separate check.

Travel Expense: Where employees are required to use their private vehicles from the employer's shop or to the job site the employee shall be paid mileage at 18¢ per mile as set forth in the Annual Appropriation Ordinance, Section 17.

10. ADMINISTRATIVE CODE PROVISIONS

Painter, Painter Supervisor I, and Painter Supervisor II shall be subject to the administrative provisions of the Salary Standardization Ordinance, File Number , as amended, for the fiscal year 1978-79.

11. INITIATION OF MEET AND CONFER PROCESS

The Union agrees to submit to the City, on or before December 30, 1978, its request for changes in the Administrative Provisions of the Salary Standardization Ordinance and the Salary Ordinance. The Union and the City will meet and confer on or before January 20, 1979 on such changes.

12. GRIEVANCE PROCEDURE

This grievance procedure shall be utilized to resolve problems or questions of interpretation which may arise on issues within the definition contained in Section A of the grievance procedure.

GRIEVANCE PROCEDURE

This grievance procedure applies to conditions of employment set forth by Ordinance or Resolution of the Board of Supervisors, ratified Memorandum of Understanding of the Board of Supervisors ovided that such condition(s) is within the scope of representation defined in California Government Code Section 3504 and provided rther that such condition of employment is within the charter thority of the Board of Supervisors.

A. DEFINITION

A grievance is defined as and is limited to an allegation by an loyee, a group of employees, or the Union that the City has failed implement a condition of employment as specifically set forth in existing Ordinance or Resolution of the Board of Supervisors, or a orandum of Understanding ratified by the Board of Supervisors; vided that such condition of employment is within the scope of re- sentation as defined in California Government Code Section 3504 and vided further that such condition of employment is within the charter hority of the Board of Supervisors to so implement.

B. EXCLUSION OF CIVIL SERVICE MATTERS

The grievance procedure herein established shall have no application matters within the jurisdiction of the Civil Service Commission as forth in the City Charter or to any rules adopted by the Commission suant to its Charter authorities.

C. DEPARTMENTAL REVIEW AND ADJUSTMENT OF GRIEVANCES

Except as may be otherwise provided in a separate departmental orandum of understanding, the following is the departmental procedure e followed in the resolution of grievances as defined in paragraph hereof.

D. GRIEVANCE PROCEDURE STEPS

An employee having a grievance shall first discuss it with the employee's immediate supervisor and try to work out a satisfactory solution in an informal manner with the supervisor.

STEP ONE

(a) If a solution, satisfactory to both the grievant and the immediate supervisor, is not accomplished by informal discussion, the grievant shall have the right to consult with, and be assisted by, a representative of the grievant's own choice in this and all succeeding steps of this grievance procedure.

(b) If the grievant desires to pursue the grievance further, the grievant, or the grievant's representative, shall, within seven (7) working days of the informal discussion with the immediate supervisor, submit a Letter of Grievance-Step One, to the immediate supervisor, the appointing authority, the Employee Relations Director, and the formally recognized employee organization, if any, for the grievant's classification.

(c) The Letter of Grievance - Step One, shall contain:

1. the date of the informal discussion,
2. the date of the submission of the Letter of Grievance - Step One, to the immediate supervisor,
3. the specific section(s)/subsection(s) of the Board of Supervisor's Ordinance, Resolution or ratified Memorandum of Understanding which grants the condition of employment that the grievant alleges the City has failed to implement,
4. a full and complete explanation of the circumstances of the grievance, and
5. the remedy sought by the grievant.

(d) The immediate supervisor shall, within seven (7) working days of the receipt of the grievant's Letter of Grievance - Step One, submit an Answer to Letter of Grievance - Step One, to the grievant, the appointing authority, and the Employee Relations Director.

(e) The Answer to Letter of Grievance - Step One, shall contain:

1. the date of receipt of the Letter of Grievance, - Step One,
2. the date of the submission of the Answer to Letter of Grievance - Step One, to the grievant,
3. a full and complete explanation of the circumstances of the grievance, and
4. the resolution of the grievance.

STEP TWO

(a) If the grievant desires to pursue the grievance further, the grievant, or the grievant's representative, shall, within seven (7) working days of receipt of the Answer to Letter of Grievance - Step One, submit a Letter of Grievance - Step Two, to an intermediate supervisor, designated by the appointing authority, the appointing authority and the Employee Relations Director.

(b) The Letter of Grievance - Step Two, shall contain:

1. the date of receipt, by the grievant, of the answer to Letter of Grievance - Step One,
2. date of submission of the Letter of Grievance - Step Two, to the intermediate supervisor,
3. the specific section(s)/subsection(s) of the Board of Supervisor's Ordinance, Resolution or ratified Memorandum of Understanding which grants the condition of employment that the grievant alleges the City has failed to implement,

4. a full and complete explanation of the circumstances of the grievance, and

5. the remedy sought by the grievant.

(c) The intermediate supervisor shall, within seven (7) working days of the receipt of the grievant's Letter of Grievance - Step Two, submit an Answer to Letter of Grievance - Step Two, to the grievant, the appointing authority, and the Employee Relations Director.

(d) The Answer to Letter of Grievance - Step Two, shall contain:

1. the date of receipt of the Letter of Grievance - Step Two,

2. the date of the submission of the Answer to Letter of Grievance - Step Two, to the grievant,

3. a full and complete explanation of the circumstances of the grievance, and

4. the resolution of the grievance.

TEP THREE

(a) If the grievant desires to pursue the grievance further, the grievant, or the grievant's representative, shall, within seven (7) working days of receipt of the Answer to Letter of Grievance - Step Two, submit a Letter of Grievance - Step Three, to the appointing authority and the Employee Relations Director.

(b) The Letter of Grievance - Step Three, shall contain:

1. the date of receipt, by the grievant, of the answer to Letter of Grievance - Step Two,

2. date of submission of the Letter of Grievance - Step Three, to the appointing authority,

3. the specific section(s)/subsection(s) of the Board of Supervisor's Ordinance, Resolution or ratified Memorandum of Understanding which grants the condition of employment that the grievant alleges the City has failed to implement,

4. a full and complete explanation of the circumstances of the grievance, and

5. the remedy sought by the grievant.

(c) The appointing authority shall, within seven (7) working days of the receipt of the grievant's Letter of Grievance - Step Three, submit an Answer to Letter of Grievance - Step Three, to the grievant and the Employee Relations Director.

(d) The Answer to Letter of Grievance - Step Three, shall contain:

1. the date of receipt of the Letter of Grievance - Step Three,

2. the date of the submission of the Answer to Letter of Grievance - Step Three, to the grievant,

3. a full and complete explanation of the circumstances of the grievance, and

4. the resolution of the grievance.

(e) Unless waived by written mutual agreement of the grievant and the appointing authority a hearing is required at this step.

(f) The seven (7) working day time limit noted in Step Three above may be extended by written mutual agreement between the grievant and the appointing authority.

TEP FOUR

(a) If the grievant desires to pursue the grievance further, the grievant, or the grievant's representative, shall, within thirty (30) calendar days of receipt of the answer to Letter of Grievance - Step Three, submit a written request to the Employee Relations Director that the grievance be heard and resolved by a hearing officer.

(b) Prior to the selection of the hearing officer, the Employee Relations Director shall informally review the grievance and attempt to resolve the grievance to the mutual satisfaction of the grievant and the appointing authority. The Employee Relations Director shall have ten (10) working days after receipt of the request in which to review and seek resolution of the grievance.

(c) The hearing officer shall be selected by mutual agreement between the grievant, or the grievant's representative, and the Employee Relations Director. If the grievant, or the grievant's representative, and the Employee Relations Director are unable to agree on the selection of a hearing officer they shall jointly request the State Conciliation Service to submit a list of five (5) hearing officers who have had considerable experience as a hearing officer in public employment disputes. The grievant, or the grievant's representative, and the Employee Relations Director, shall then alternately delete names from such list until only one (1) name remains; and that person shall serve as the hearing officer. Whether the employee, or his representative, or the Employee Relations Director deletes the first name in the alternating process of deleting names, shall be determined by lot.

(d) Except when a statement of facts mutually agreeable to the grievant and the appointing authority is submitted to the hearing officer, it shall be the duty of the

hearing officer to hear and consider facts submitted by the parties.

(e) It shall be the duty of the hearing officer to hold said hearing within fifteen (15) calendar days of written acceptance of appointment as the hearing officer.

(f) After said hearing, or review of mutually agreeable statement of facts, it shall be the duty of the hearing officer to make written finding of fact(s) upon which the decision of the hearing officer is based.

(g) The decision of the hearing officer shall be final and binding upon the parties.

(h) The hearing officers' authority pursuant to the provisions of this grievance procedure shall be limited to a decision, based on submitted facts and applicable law, of whether or not the City has improperly failed to implement a condition of employment which is provided for in an Ordinance, Resolution or Memorandum of Understanding ratified by the Board of Supervisors. Further, the hearing officer shall have no power to amend, or recommend an amendment of, a Board of Supervisors ratified Memorandum of Understanding, Ordinance or Resolution.

(i) Each party, (employee, group of employees, or Union and the appointing authority) to a hearing before a hearing officer shall bear its own expenses in connection therewith. All fees and expenses of the hearing officer, and a reporter if any, shall be borne and paid in full by the losing party.

In the event the hearing officer shall make a compromise decision, the party or parties which shall pay the fees and expenses of the hearing officer, and a reporter if any, shall be determined on a proportional basis by the hearing officer.

E. THE EFFECT OF FAILURE OF TIMELY ACTION

Failure of the grievant to submit an appeal within the required time limit at any step, or for informal discussion, shall constitute an abandonment of the grievance. Failure of the City to respond within the time limit in any step shall result in an automatic advance of the grievance to the next step.

F. TIMELINESS OF GRIEVANCE

A grievance shall be void unless initiated by informal discussion with the immediate supervisor within forty five (45) calendar days from the date on which the City has allegedly failed to implement a condition of employment, or within forty five (45) calendar days from the time the grievant might reasonably have been expected to have learned of such alleged failure to implement a condition of employment. In no event shall any grievance include a claim for money relief for more than the forty five (45) day period plus such reasonable discovery period.

G. RIGHTS OF THE UNION FORMALLY RECOGNIZED TO REPRESENT THE GRIEVANT'S CLASSIFICATIONS

An employee, in a classification which is included within a representation unit for which formal recognition has been granted, shall pursue any grievance under this procedure with the assistance of said formally recognized employee organization or said employee may represent himself/herself with the assistance, if the employee so elects, of counsel or

ther representative. As used herein, counsel or other representative hall not include any other employee organization or the representative(s) f any other employee organization.

In those grievances in which the employee represents himself/herself, r arranges for representation by other than the formally recognized mployee organization as set forth above, the City shall make no resolution r award which shall be inconsistent with the terms and conditions of a atified Memorandum of Understanding which covers the grievant's classi- ication. In the event the formally recognized employee organization etermines that such an inconsistent resolution or award has been made, he formally recognized employee organization, on its own behalf, may le a grievance at Step Three for the purpose of amending such inconsistent solution or award. In the event the grievant represents himself/herself, elects a representative other than the formally recognized employee ganization, the formally recognized employee organization may elect to a full and equal party at Step Four for the purpose of protecting the terest of its members in negotiated conditions of employment.

APPROVED AS TO FORM:
THOMAS M. O'CONNOR
CITY ATTORNEY
BY _____
DEPUTY CITY ATTORNEY

13. COVERALL ALLOWANCE

The City agrees to provide the employees working in classifications governed by this MOU two pair of coveralls per week. The Union and the employee agree that the coveralls so provided shall be worn at all times and that the employee shall exercise due diligence with regard to the care and upkeep of said uniforms. In the event a pair of coveralls is lost or otherwise becomes unavailable due to the employee's fault, the employee agrees to pay for the replacement of same.

14. APPRENTICESHIP PROGRAM

The Union and the City through it's Civil Service Commission agree to use all reasonable and good faith efforts to implement an Apprenticeship Training Program for Class 7346 Painter. Should agreement be reached on such a program, said agreement shall be memorialized in writing and shall be considered a part of this MOU.

15. AGREEMENT MODIFICATION

In the event the California Constitution is amended during the term of this agreement by the adoption of the so-called "Jarvis-Gann amendment", it is agreed by the parties signatory hereto that all provisions negotiated and governed by the terms of this agreement which resulted in any additional cost whatsoever to the City for the Fiscal Year 1978-79, shall automatically become inoperative. Except as provided in this paragraph, the Union does not waive any rights to meet and confer on other items within the scope of representation.

The City acknowledges its obligation to meet and confer on matters of wages, hours and terms and conditions of employment as

15. AGREEMENT MODIFICATION (Continued)

defined in Government Code Section 3504 that might be affected by the adoption of the Jarvis-Gann amendment and will do so to the extent required by this agreement and applicable laws.

16. SAVINGS CLAUSE

Nothing herein shall be construed to prejudice the rights of any employees, covered by the terms of this agreement, to pursue any legal remedy provided by the laws of the State of California and the United States.

Nor shall anything herein be construed to prejudice or change the status of any employee, covered by the terms of this agreement, provided for or guaranteed by any law of California or the United States.

Should any part hereof or any provision herein be declared invalid by reason of conflicting with a Charter provision or existing ordinances or resolutions which the Board of Supervisors had not agreed to alter, change or modify, or by any decree of a court, such invalidation of such part or portion of this MOU shall not invalidate the remaining portions hereof and the remaining portions hereof shall remain in full force and effect for the duration of the MOU.

17. DURATION OF AGREEMENT

In the process of ratification of this Memorandum of Understanding, the Board of Supervisors cannot add to or change any of the seventeen (17) items or parts thereof; because every item is in complete conjunction with each other item.

This MOU shall be in effect from July 1, 1978 through June 30, 1979.

IN WITNESS WHEREOF, the parties hereto have executed this MOU this 21 day of March, 1978.

FOR THE UNION

Morris R. Evenson
Secretary

FOR THE CITY AND COUNTY

Milton H. Mares
Chief Labor Negotiator

Jean Pral
Employee Relations Representative

APPROVED AND ADOPTED BY THE BOARD OF SUPERVISORS BY RESOLUTION NO. _____
ON _____

APPROVED AS TO FORM
GEORGE AGNOST, CITY ATTORNEY

BY _____
James L. Lazarus
Deputy City Attorney